United States Court of Appeals

for the Second Circuit

APPENDIX

76-2368

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

ELMORE CUNNINGHAM, ERNEST ISON III, EDGAR WILLIAMS and CHARLES GOLL, and All Others Similarly Situated at Auburn Correctional Facility,

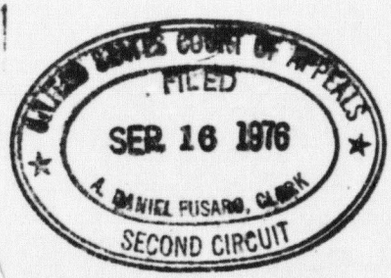
Appellants,

-against-

BENJAMIN WARD, Commissioner, New York State Department of Correctional Services, ROBERT J. HENDERSON, Superintendent, Auburn Correctional Facility, and their subordinate employees,

Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK



APPENDIX

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APPENDIX

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PLAINTIFFS

CUNNINGHAM, ELMORE, ISON, ERNEST III, WILLIAMS, EDGAR and GOLL, CHARLES, and all others similarly situated at Auburn Correctional Facility

DEFENDANTS

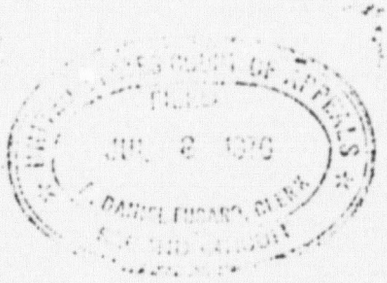
WARD, BENJAMIN, Commissioner New York State Department of Correctional Services, HENDERSON, ROBERT J., Superintendent Auburn Correctional Facility and their subordinate employees

CAUSE Unfair disciplinary punishment

76-CV- 29

ATTORNEYS

Elmore Cunningham, Pro se
135 State St.
Auburn, N. Y. 13021



CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
			100000	JS-5	
				JS-6	

DATE 1976	NR.	PROCEEDINGS
Jan. 23	1	Filed Civil Rights Complaint
" 23	2	Filed Memorandum-Decision and Order of Judge Port(1/20/76) denying and dismissing the Civil Rights Complaint. The Clerk is directed to file the papers without the payment of fees.
" 23	3	Filed Judgment
Feb. 11	4	Filed Notice of Appeal

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
N.D. OF N.Y.
Filed
JAN 8 - 1976
AT O'CLOCK M.
J. R. SCULLY, CLERK
UTICA

ELMORE CUNNINGHAM, ERNEST ISON III, EDGAR WILLIAMS and CHARLES GOLL, and all others similarly situated at Auburn Correctional Facility

Plaintiff

-against-

BENJAMIN WARD, Commissioner New York State Department of Correctional Services,

ROBERT J. HENDERSON, Superintendent Auburn Correctional Facility and their subordinate employees

Defendants

Class Action Complaint for Injunction, Declaratory and Monetary Relief

76 - Civ -

76-CV- 29

I. Jurisdiction

1. This is a civil action for a declaratory judgment that rights secured to plaintiffs by the due process clause of the Fourteenth Amendment to the United States Constitution, are being violated in the administration of prison discipline at Auburn Correctional Facility Auburn N.Y. This is also a proceeding for a preliminary and permanent injunction, preventing defendants from continuing to violate plaintiffs rights, whaile acting under color of state law; This is a proceeding to recover monetary damages for mental anguish, pain and suffering, loss of wages.

2. Jurisdiction is conferred on this court under 28 U.S.C. 1343 (3,4) providing for jurisdiction over claims arising under 42 U.S.C. 1983 and 28 U.S.C. 2201 and 2202 relating to declaratory

judgment and for class action status pursuant to Fed. Rules Civ Pro. 23 (b)(1,2).

II. Parties

3. Plaintiffs, Elmore Cunningham, Ernest Ison III, Edgar Williams and Charles Goll, are prisioners incarcerated at Auburn Correctional Facility at Auburn, New York. They are citizens of the United States by birth and residents of the State of New Yor

4. Defendant, Benjamin Ward is Commissioner of the New Yor State Department of Correctional Services. He is sued in his off ial capacity. As Commissioner of Corrections, he maintains contr over all policy in regards to inmates throughout the New York Sta Correctional Facilities and is responsible for all violations of inmates rights incurred by subordinates, in his capacity as respo dent superior.

5. Defendant, Robert J. Henderson is superintendent of Aubu Correctional Facility. He is sued in his official capacity. As Superintendent, defendant Henderson is responsible for the care, custody and control of inmates at Auburn Correctional Facility.

6. Defendant ... McCormick, is a correctional officer of the Department of Correctional Services who, at all times mentioned in this complaint, held the rank of sergeant and was assigned to Aubur Correctional Facility.

7. Defendant ... Dan, is a correctional officer of the Depar ment of Correctional Services who, at all times mentioned in this complaint, held the rank of sergeant and was assigned to Auburn Correctional Facility.

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8. Defendant ... Rosa, is a correctional officer of the D partment of Correctional Services who, at all times mentioned wa assigned to Auburn Correctional Facility.

9. Defendant Bernard Smith is a correctional officer of th Department of Correctional Services who, at all times mentioned w assigned to Auburn Correctional Facility.

III. Class Action Allegations

a. Plaintiffs bring this action pursuant to Federal Rul of Civil Procedure 23(b)(1) and 23(b)(2) on behalf of themselves and all others who are now, have been, or will be incarcerated at Auburn Correctional Facility, Auburn New York. The precise size o the class presently incarcerated at Auburn Correctional Facility, within the knowledge of the defendants but is believed to normally number approximately 1650 individuals. The number of the individu in the class is so numerous that joiner of all is impracticable.

b. There are questions of law, and fact common to the class and the claims and defenses of the plaintiffs are typical of the claims and defenses of the class as a whole, in that plaintiffs and members of the class are all subjects to defendants complained of herein. Defendants, acting together under color of state law, have subjected and are subjecting plaintiffs and members of the cla to deprivation of due process in their administration of disciplina procedure before the Adjustment Committee, and the arbitrary and capricious nature in which they enforce written and unwritten rules in violation of legislative and judicial mandates.

c. The claims of mepresentative parties will not at this time fairly and adequately protect the interests of the class, be-

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cause, no representative of the Spanish speaking class has joined this action, "but", adjudication with respect to individual members of the class would as a practical matter be dispositive of the interests of the other members complaint not parties to the adjudication.

d. The parties opposing the class have acted or refused to act on ground generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief to the class as a whole. The questions of law or fact common to the members of the class predominate over any actions affecting only individual members, and a class action is superior to other available methods for the fair and effective adjudication of this controversy.

IV. Facts

10. On September 1, 1975 defendants Ward and Henderson, issued a joint handbook titled "Standards of Inmate Behavior", which regulates inmate behavior (see exhibit A). This was done in "part" because of recent state legislation, requiring defendants to post rules in both "English and Spanish" (see exhibit B). No rules have been printed in Spanish as of this writing.

All Plaintiffs

11. On or about September 12, 13, 15 and presently plaintiffs Cunningham, Ison and Williams were harassed, in timadated and threatened with keep locks because they questioned a new "unwritten policy" of not being able to wear their hats or smoke while going through the cell (housing) block to the mess hall. Defendants Sgt. McCormick and Sgt Dann stated that thery were following orders but would not produce said order for plaintiffs, nor has such an order

been posted anywhere in the housing areas as of this writing. The rule on head covering is very clear. Exhibit A, 4.5 states:

> "4.5 Head coverings shall be removed on entering certain parts of the facility such as offices, school rooms, board room, chapel, auditorium and hospital."

It makes no mention of the mess hall, or cell blocks, and it is clear that a person can have a hat on until he reaches the audit[illegible] which he must go through the housing blocks to reach. As a result of the continued harassment over the hats on or about November 20, Cunningham was made to appear before the Adjustment Committee without ever being afforded the procedural safeguards set out by the U.S. Supreme Court in Wolff v McDonnell 418 U.S. 539, 94 S.Ct. 2963 et seq. which is the controlling case on prison disciplinary proceeding and is applicable to the states through the 14th Amendment, due process and equal protection clauses. Defendants Ward and Henderson are responsible for violations of plaintiff's civil rights and have taken no interest to correct said violations.

Plaintiff Williams

12. On or about December 9, Plaintiff Williams was approached by Defendant Smith and asked if he could examine a bag of hot water thermos bottles that he was carrying. Plaintiff stated that they were filled with hot water. Defendant Smith inspected said bottles and found only hot water. Defendant Smith then keep locked plaintiff, wrote up a disciplinary report; caused Plaintiff to appear before the Adjustment Committee, where he was given ten (10) days keep lock on a charge that was not mentioned, while at no time was he ever provided the procedural safeguards afforded him in Wolff supra.

Plaintiff Goll

13. On or about December 10, Plaintiff Goll was approached by

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unknown correction officers and told that he could no longer carry his make shift brief case because it had a flap on it, he was further told that it must be in a clear plastic or brown paper bag. Plaintiff complied with this order; put his case in a brown paper bag; was keep locked and made to appear before the Adjustment Committee, where he was given seven (7) days keep lock, on charges that he knew nothing about until the hearing. At no time was he ever provided the procedural safeguards afforded him in Wolff supra.

Plaintiff Cunningham

14. On or about December 13, Plaintiff Cunningham was approached by defendant Rosa, who asked plaintiff why he still had nude and other pictures on his cell walls, plaintiff explained to defendant that since administrative officials were about to remove the same he saw no need in removing them himself. Defendant then suggested that plaintiff remove pictures, out of personal understandin plaintiff stated that he would like to see the housing sergeant, which he did not get to see. On December 14, at 4:15 p.m. plaintiff was informed by a corrections officer that he had been keep locked. Plaintiff requested a copy of the misbehavior report and was told that he was not entitled to the same. Plaintiff was never given a reason in writing for (Continued page 6a)

General Policies and Practices

15. At Auburn Correctional Facility Defendant Henderson, and his subordinates do not afford inmates their constitutional rights under Wolff v McDonnell at Adjustment Committee hearings, mainly, they do not give:

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this action nor was he given a copy of the report. Plaintiff further contends that he should have been allowed to see the housing sergeant in accord with rule 10, paragraph 2, Cell Standards and Regulations which states:

> "If the matter cannot be resolved at this level, the correction sergeant in charge of the housing unit will be advised. The sergeant will then meet with the inmate and discuss the corrective action to be taken."

This procedure was not followed by defendant Rosa, Adjustment Committee hearing was held on December 16, and plaintiff was given 30 days suspended sentence, but was not given a copy of the charge or a copy of the disposition.

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1) Written notice of charges 24 hours before hearing.

2) The right to confrontxon cross examination adverce witnesses.

3) The right to present witnesses and evidence in his behalf.

4) The right to be represented by inmate legal staff or an inmate of their choosing.

5) Written disposition for the findings, to include the evidence relied upon to make such a finding.

These facts were reaffirmed in a recent New York case titled Powell v Ward, 74 Civil 4628 S.D.N.Y., in whcih correctional personnel were ordered to follow the procedure set out by Wolff supra. This is not the fact in Auburn, and will not be unless the court takes action.

16. In addition to this, inmates are mainly keeplocked for rules that show no signature, sanction or authority, (see exhibit A and A.1) mainly rule 1.90 of exhibit A which states:

> "Refusing to obey a direct order (including refusing to work)"

This rule is arbitrary in contents whereas, the Department of Correctional Services cannot adequately say or show by psychiatric examinations that all of its officers and personnel are mentally fit to give an inmate a reasonable direct order, and with fewer than one percent of the correctional officer staff being able to speak Spanish, and with none of the rules being printed in Spanish, these inmates alone do, and will suffer drastic grevious harm mentally, because they are not being afforded equal protection by defendants Ward and Henderson, their agents and employees.

V. Statement of Claim

17. Defendants acting together, by their intentional acts and omission, under color of law, are violating 42 U.S.C.A. 1983 in that plaintiffs are thereby subjected to a deprivation of their sixth and fourteenth amendment rights to effective legal assistance or substitute cross examination of witnesses, confrontation, due process and equal protection at Adjustment Committee hearings in the following manner:

a. Plaintiffs and members of the class are given no notice of the day and time of pending disciplinary hearings and no statement of the charges against them. Plaintiffs and members of the class are thereby denied the ability to prepare an adequate defense against those charges.

b. Persons subjected by defendants to disciplinary proceedings are given neither the right to confront and cross examine their accusers nor the right to present witnesses in their behalf.

c. Persons subjected to disciplinary proceedings are denied legal assistance or substitute. Requests for legal assistance or counsel by plaintiffs Cunningham, Williams and Goll were denied.

d. There is no requirement that the decisions of the Adjustment Committee be based on substantive evidence adduced at the hearing or that the reasons for the disciplinary decision be either entered in the record or given to the plaintiffs and their class.

e. No adequate record of the hearing is kept by defendant

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18. Plaintiffs and members of the class on whose behalf this suit is brought have no plain, adequate or complete remedy at law to redress the wrongs alleged herein, and that this suit for a declaratory judgment and injunction is their only means of securing relief. Plaintiffs and members of the class are now suffering and will continue to suffer irreparable injury from defendants policies and practices as set forth herein.

Prayer for Relief

WHEREFORE, Plaintiffs respectfully pray that this court enter judgment granting plaintiffs:

a. A declaratory judgment that defendant's acts, policies complained of herein violates plaintiffs' rights and right of members of the class, secured by the due process and equal protection clauses of the fourteenth amendment.

b. A preliminary and permanent injunction enjoining defendants from summarily punishing plaintiffs and members of the class from inflicting serious punishment on them without providing them with minimal safeguards of due process of law.

c. A preliminary and permanent injunction setting aside the disciplinary actions taken against plaintiffs and members of the class from September 1, 1975 till the present expunging such actions from the records kept by defendant, reinstating normal prison privileges and requiring defendants to account for wages withheld by Adjustment Committee action and credit some to plaintiffs and members of the class where appropriate.

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d. That an order be issued requiring defendants Ward and Henderson to have a certified psychiatric report submitted to the court, of the mental state of each and every subordinate officer at Auburn Correctional Facility, to determine whether they are capable of giving reasonable orders.

e. A judgment enjoining defendants from utilizing the inmate rule book until all the rules have been made available to all inmates in both Spanish and English in accordance with law.

f. Plaintiffs' costs of this suit; and for such other and further relief as the court may deem just and proper.

Dated this 31 day of December 1975

State of New York :
: SS.:
County of Cayuga :

Elmore Cunningham, Ernest Ison III, Edgar Williams, Charles Goll, being first duly sworn on oath, deposes and says: That they are plaintiffs herein; and that they have read the foregoing complaint and know the contents thereof and the same are true of their own knowledge except as to the matters therin stated to be alleged on information and belief, and as to these matters they believe them to be true.

Elmore Cunningham
Elmore Cunningham - Pro se

Ernest Ison III
Ernest Ison III - Pro se

Edgar Williams 65780
Edgar Williams - Pro se

Charles Goll 69694
Charles Goll - Pro se

Subscribed and sworn to before me

this 31 day of December 1975

Eleanor G. Grams
Notary Public

[illegible] New York
Notary Public [illegible]
Cayuga County [illegible]
My Commission Expires March 30, 1977

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State of New York
Department of Correctional Services

STANDARDS OF INMATE BEHAVIOR

All Institutions

(Inmate Rules, Penalties and Outline of Procedures)

Exhibit "A"

September 1, 1975

Your behavior during your sentence may be reviewed at different times for a number of reasons. For example, your behavior is important when reviewed by the Board of Parole or by a temporary release committee and it is reviewed by program committees which make assignments and by staff when transfers between facilities are considered.

You may also appear before a facility Time Allowance Committee which will review your overall behavior after which they will recommend to the Commissioner how much good behavior allowance you will be given, which cannot be more than one-third of your maximum sentence.

Therefore, it is important and to your advantage for you to have a good record.

Reports of misbehavior written by facility staff will result in your going to either the Adjustment Committee or to a Superintendent's Proceeding. Please remember that employees must report all misbehavior.

ADJUSTMENT COMMITTEE

The Adjustment Committee is made up of three staff members whose goal is to get you to understand and follow the rules and policies of the facility. The Adjustment Committee may restrict or place limits upon your activities if it feels that action is needed to get your behavior within acceptable limits. The range of restrictions or sanctions or sentences or dispositions which may be given by the Adjustment Committees are contained in Chapter V of the Rules and Regulations and are outlined in Chart #1 which is attached.

SUPERINTENDENT'S PROCEEDING

In any case where there is reason to believe that an inmate's behavior is a danger to life, health, security or property or that an inmate has intentionally failed or has refused to follow the help and advice of the Adjustment Committee, the superintendent may order that a Superintendent's Proceeding be held. This proceeding is a more formal step than the Adjustment Committee, and is a hearing before a staff member picked by the superintendent. The range of restrictions or sanctions or sentences or dispositions which may be given after a Superintendent's Proceeding are contained in Chapter V of the Rules and Regulations and are outlined in Chart #1 which is attached.

INTRODUCTION

Life in correctional facilities, like life anywhere, is regulated by rules and procedures - the most important one of which is treating others as you would like to be treated yourself.

Staff and inmates must respect each other's person and each other's property. Everyone is expected to take part in programs and share the duties of facility living.

This guide is to tell you about what is expected of you and to tell you of those general rules of conduct which are the same at all facilities. There are some additional rules and procedures which may change from facility to facility because no two facilities are exactly the same. For example, the program, or the number of inmates or even the type of inmate may change from facility to facility. However, staff at each facility will tell you about any changes when you arrive. Staff at each facility will also tell you about their commissary, packages, visiting, telephone home programs, temporary release programming, library hours, recreation programs, etc. Each facility will tell you about their procedures and rules for messhall, cell hall, and conduct in other areas of that facility. Please study both this general guide and any rules and procedures which the facility gives you since they will help you to get along and you will be expected to know about them after they have been given to you. If you have any questions, ask facility staff right away for help so that you will know what is expected of you.

GOOD BEHAVIOR ALLOWANCE

Most inmates can shorten the amount of time to be served on their sentence by good behavior, by doing their assigned duties willingly and well and by progress in programs. Of course, the opposite is also possible - the time to be served may be increased because of misbehavior, not doing assigned duties willingly or failure to take part in assigned programs.

PROCEDURES

The method or procedures to encourage good behavior and for getting good behavior time allowances are contained in detail in Chapter V and VI of the Rules and Regulations of this Department. In addition, Section 803 of the Correction Law, which provdes for the good behavior allowances, is printed on the last page of Chapter VI. Copies of these procedures (Chapter V and VI) are available in each facility library, and can be obtained at all facilities. Please understand that this guide is not intended as a substitute for Chapter V and VI.

There are two charts which follow:

Chart #1 lists three classes or types of misbehavior. Class A is more serious than Class B, and Class B is more serious than Class C. The class tells you the degree of seriousness of the misbehavior or the rule violation. Chart #1 also tells you what can be given to you as a restriction, a sanction, a disposition or sentence for each class, if it is found that you have misbehaved or violated a rule or done something wrong. The entire range of sanctions or dispositions for each class is given. Chart #1 is an outline and for more detail, please see Chapter V of the Rules and Regulations of the Department.

Chart #2 and the facility attachments tell you what is misbehavior or what is a rule violation or what is wrong behavior. Chart #2 also gives you the class of each violation. The class will tell you how serious the misbehavior or the rule violation is considered. The class also tells you, by using Chart #1, the range of sanctions or dispositions which can be given to you if it is found that you have violated that rule.

If you do not understand clearly what behavior is not allowed or prohabited, or if you do not know the meaning of any of the words used in Chart #2 - ask facility staff at once for help, so that you will know what is expected of you. Some of the terms used are defined in detail in the Penal Law. Copies of this law are available to you in the law library.

Attachments

Chart #1

Classes of Misbehavior and Dispositions for Each Class
(For more detail, see Chapter V of the Rules and Regulations of the Department)

Class A Misbehavior

(Serious misbehavior which is a danger to life, health, security or property or intentional failure or refusal to follow the advice of the Adjustment Committee.)

Superintendent's Proceeding, Class A Dispositions:

1. Warning.
2. Loss of one or more privileges for a period of time.
3. Temporary or permanent change of program.
4. Confinement to cell or room or in a special housing unit for a period of time. However, any period of more than 60 days is subject to the approval of the Commissioner for that part which is more than 60 days.
5. Confinement as above but on a diet that is not the same as the diet of other inmates.
6. Restitution or the payment of money for loss of or intentional damage to State property.
7. Loss of a period of good behavior allowance ("good time"), subject to getting it back as provided in Chapter V.
8. Referral to the Adjustment Committee for such action or further action as may be felt proper by the committee, within the limits of the action the committee is allowed to take.

Class B Misbehavior

(Misbehavior which is not a danger to life, health, security or property or intentional failure or refusal to follow the advice of the Adjustment Committee.)

Superintendent's Proceeding, Class B Dispositions:

1. Warning.
2. Any action that the Adjustment Committee would have been authorized to take.
3. Temporary or permanent change of program.
4. Restitution or the payment of money for loss of or intentional damage to State property.
5. Loss of a period good behavior allowance ("good time"), subject to getting it back as provided in Chapter V.
6. Referral to the Adjustment Committee for such action or further action as may be felt proper by the committee, within the limits of the action the committee is allowed to take.

Class C Misbehavior

(Less serious misbehavior)

Adjustment Committee:

1. Advise, Warn.
2. Loss of one or more privileges for a period not more than 30 days.
3. Confinement to his cell or room for a period up to, but not more than two weeks.
4. Confinement in a special housing unit where the committee feels this is necessary because of the inmate's behavior. However, in such cases, the Adjustment Committee shall immediately recommend to the superintendent that a Superintendent's Proceeding be held.
5. Where the committee restricts the activities of an inmate, it may direct that the inmate reappear before it during the period of the restriction to review a possible change in the attitude of the inmate. Where the committee feels that a change has occurred, it may discontinue the restriction or any portion of it.
6. The committee may delay action for a period of up to three months. In such case, the inmate shall be told that his behavior will be observed by the committee and that further action may be taken if his behavior does not improve.
7. Where the committee feels that a formal finding as to whether an inmate violated a particular rule or regulation is needed, the committee may recommend that a Superintendent's Proceeding be held.

Chart #2

Behavior Prohibited in All Facilities and the Classification of Each

Important Note - If you do not understand clearly what behavior is not allowed or prohibited, or if you do not know the meaning of any of the words used in this list - ask facility staff at once for help so that you will know what is expected of you.

Some of the terms used are defined in detail in the Penal Law. Copies of this law are available to you in the law library.

BEHAVIOR	CLASSIFICATION
Serious Misbehavior	See Chart #1 for the range of restrictions, or sanctions or dispositions allowed for each class. The facility can always chose a lower classification. Some behaviors have several classifications to account for special circumstances
1.00 All Penal Law Felonies, Misdemeanors and violations which are a danger to life, health, security or property.	Class A
1.05 All Penal Law Felonies, Misdemeanors and violations which are not a danger to life, health, security or property.	Class B

The following misbehaviors may include some of the Penal Law offenses but are repeated to show that they are important.

1.10 Arson	A
1.15 Assault	A
1.16 Attempted Assault (Generally attempts to commit misbehavior will be considered the same as the actual misbehavior.)	A
1.20 Bribery	A or B
1.25 Disturbance; creation, participation or inciting others to participate (threat to security or order)	A

1.30	Contraband: (making, possessing, sale or exchange)	
1.31	Alcoholic or intoxicating beverage in quantity (one quart homemade wine, any amount distilled beverage or commercial wine)	A-B-C
1.32	Dangerous weapons, firearms, ammunition, bombs, batons, blackjacks, knives or any dangerous item.	A
1.33	Drugs, controlled substances	A
1.34	Medicine unauthorized (When authorization is provided for anywhere in Chart #2, it must be in writing.)	A or B
1.35	Possession of money, stamps, checks	A-B-C
1.36	Security keys, employee identification, badges or clothing	A
1.40	Destruction or loss of State property	A-B-C
1.45	Escape or attempting to leave facility without proper authorization	A
1.50	False alarms	A or B
1.55	Failure to attend Adjustment Committee	A or B
1.60	Failure to comply with Temporary Release Programming rules and procedures	A or B
1.61	Failure to return or returning late from Temporary Release Programming	A or B
1.65	Forgery (identification cards, passes, medical excuses, etc.) or tampering with institution documents	A or C
1.70	Homosexual acts	A
1.75	Interference with an employee in the performance of duty	A-B-C
1.80	Impersonating employees	A
1.85	Intoxication or under the influence of alcohol, drugs or other substance	A
1.90	Refusing to obey a direct order (including refusing to work)	A-B-C
1.91	Refusing to comply with personal frisk and/or cell or room search procedures	A-B-C
1.95	Riot or inciting others to participate (immediate and grave danger to life, health, security by 3 or more persons)	A
2.00	Sexual abuse	A
2.05	Smuggling or attempting to smuggle any unauthorized material in or out of the facility	A or B
2.10	Stealing (from inmates, employees or State property)	A or C
2.15	Strikes, sit-ins, lock-ins	A
2.20	Tampering or threatening witnesses or informants before or after proceedings	A
2.25	Tampering with windows, door locks, plumbing or electrical fixtures (TV sets, radios, earphones, etc.)	A or C

2.30	Threats (verbal, written or gesture) toward other inmates or employees	A or C
2.35	Unauthorized assembly	A or C

Less Serious Misbehavior

(Repeated violation or failure to follow the advice of the Adjustment Committee may increase the seriousness and the classification of the following behaviors.)

3.00	Any violation of posted and distributed local facility rules or procedures	C
3.10	Contraband (making, possessing, sale or exchange)	
3.10.1	Alcoholic beverages, intoxicants	C
3.10.2	Drugs or medication not authorized	C
3.10.3	ID cards, (social security, selective service, auto registration, MV Op lic., Union, etc.), unless authorized	C
3.10.4	Any material or thing which has not been authorized	C
3.10.5	Expensive or dangerous jewelry (including watches)	C
3.10.6	Knives or tools without authorization while away from work assignment	C
3.10.7	Pornographic material (which violates media review committee guidelines)	C
3.15	Promoting contraband (asking anyone to bring or send contraband)	C
3.20	Grooming and Hygiene	
3.20.1	Beards, refusing to shave	C
3.20.2	Hair over ears or collar, sideburns untrimmed or below ear lobes	C
3.20.3	Mustache untrimmed and/or below upper lip	C
3.20.4	Religious medals outside clothing or wearing religious garments outside of approved areas	C
3.20.5	Tattoo or mutilate self or others	C
3.20.6	Unclean, disorderly, cluttered person, clothing, bedding or quarters	C
3.20.7	Unhygienic act (e.g. spitting on floor)	C
3.25	Safety	
3.25.1	Creating a fire, health or safety hazard	C

Safety continued

3.25.2	Failure to follow posted safety measures	C
3.25.3	Failure to report illness or injury	C
3.254	Smoking except in approved areas	C
3.30	Order and Security	
3.30.1	Abuse of priviles (wrong or improper use of any benefit allowed by facility staff)	C
3.30.2	Abusive and/or obscene language	C
3.30.3	Altering State clothing, minor destruction of State property	C
3.30.4	Exchange (giving or receiving) anything with visitors without authorization	C
3.30.5	Failure to cooperate with facility "count" procedures	C
3.30.6	Fighting	C
3.30.7	Gambling in any form (playing, betting or organizing)	C
3.30.8	Harassment (harass, annoy or alarm employee or inmate)	C
3.30.9	Littering (improper disposal of trash or garbage)	C
3.30.10	Loitering	C
3.30.11	Loud and boisterous conduct, horseplay such as sparring, wrestling, body punching, etc.	C
3.30.12	Lying (incomplete and/or false statements or information)	C
3.30.13	Out of place or leaving assigned area without authorization	C
3.30.14	Participating or organizing unauthorized group activities	C
3.30.15	Practicing Martial arts (marching, drilling, group exercises or practice of Aikido, Judo, Jusitsu, Karate, Kung fu, Nunchukus, Tai Chi Ch'uan etc., without approval)	C
3.30.16	Purchase, sale or exchange or articles or services between inmates without authorization	C
3.30.17	Refusing to accept work or program assignment	C
3.30.18	Soliciting goods or services or visits from other than family without approval	C
3.30.19	Unauthorized use of property or equipment	C
3.30.20	Wasting food	C

AUBURN CORRECTIONAL FACILITY
135 State Street
Auburn, New York 13021

GENERAL RULES OF BEHAVIOR
FOR
INMATES

August 1975

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General Rules of Behavior for Inmates

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4. GENERAL RULES OF BEHAVIOR

Listed below are rules necessary for the orderly operation of the institution. These rules have been formulated to protect you as an individual and to assure you an opportunity to develop a planned program without undue interference. Compliance with these rules will assist you and others in maintaining orderly and safe conditions in the facility.

4.1 Disrespectful communication or conduct in any form to facility employees or other inmates will lead to disciplinary action. C

4.2 Inmates shall keep their person, clothing, bedding and living quarters clean, neat and in order. Offensive and unhygienic procedures and activities must be avoided anywhere in the facility. C

4.3 Inmates shall not leave their place of assignment except by permission of the officer or employee in charge. C

a. A facility pass will be required.
b. An escort officer will take you.
c. Your name will be on a callout sheet.

4.4 If an inmate is sick or receives an injury he shall immediately report that fact to the employee in charge. C

4.5 Head coverings shall be removed on entering certain parts of the facility such as offices, school rooms, board room, chapel, auditorium and hospital. C

4.6 An inmate desiring to communicate with the Superintendent or the Commissioner, may obtain papers and envelopes for the purpose of making request. The matters to be discussed must be stated plainly and sealed in an envelope.

4.7 Unless permitted by the officer in charge, an inmate shall not engage in conversation with visitors except persons on the inmate's visiting list. Under no circumstances shall an inmate give anything to or receive anything directly from a visitor. C

4.8 Purchase or sale of articles among inmates must be approved by the Superintendent. Only in very unusual circumstances will approval be granted. Inmates may not offer for sale any item or services to another inmate. Art and craft items may be offered for sale to the following: C

a. Any visitor.
b. Any employee of this facility.
c. To the general public through facility sponsored art exhibits and sales.

All arrangements will be made through the Hobby Shop employee.

4.9 Any jewelry, including watches, permitted to be worn by inmates, must be simple in appearance, inexpensive ($20 maximum value), not dangerous as a weapon, and must be the property of the wearer. Any such articles not approved by the Superintendent will be deposited in the inmate's personal property. Wedding bands are the only rings authorized. C

4.10 Inmates are not to have in their possession any identification cards, Social Security cards, automobile registration, motor vehicle operation licenses, union or fraternal organizations, etc. except for the facility authorized I.D. card. C

4.11 No inmates shall demand, receive or obtain from, or perform for, another inmate, personal services except by proper permission. C

4.12 An inmate shall not have in his possession any knives or tools except by permission of competent authority. You must have a written permit to have such articles while away from your assignment. C

4.13 The facility provides necessary clothing. You may purchase or receive from approved outside sources clothing items in accordance with the Commissary and Package Room lists. State issue clothing is not to be altered by inmates except by official direction. C

4.14 Inmates are to move from one place to another about the facility in an orderly manner when in groups. You are expected to execute promptly instructions given by the officer in charge. C

4.15 Smoking will be permitted only in places and at times designated by the Superintendent. No smoking in the Mess Hall - Auditorium - Gym - Media Center - Chapel and parts of the Administration Building. C

4.16 Inmates shall not destroy tools, break machines, waste food, abuse or alter wearing apparel or abuse furniture or any other supplies and equipment furnished in connection with maintenance and work. The value of State property destroyed, wasted or stolen by an inmate may be taken from your compensation or other funds. C

4.17 Hair length will be no higher than 3 inches from the head or shall not extend below the eyebrows or the collar. Face will be clean shaven with the following exceptions: C

a. Mustache - no portion of the mustache will go below the corners of the mouth.
b. No beards, goatees or other facial hair will be allowed.
c. Sideburns are to extend no further than the lowest part of the ear and shall be cut on a horizontal line.

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4.18 Inmates as well as employees have a responsibility to conserve food, water, heat, light and power. C

4.19 Unless engaged in regular sports programs, group meeting or exercising together will be limited to four members. Exception will be those conducted, supervised or authorized by the staff. C

4.20 Prior approval of the Superintendent or one of the Deputy Superintendents is needed before anything may be posted on bulletin boards. The duplicating or copying of materials must have prior written approval of a Department Head or a Deputy Superintendent. C

4.21 I.D. cards should be carried at all times and should be presented when picking up packages, charging out books and equipment and when requested by an employee for identification. C

5. CLOTHING

5.1 Each inmate is responsible for the proper care and the cleaning of his own clothing. Your name and/or number must be clearly marked on each article of clothing.

5.2 Clothing will be replaced when in the judgment of the Clothing Room Officer, it is worn out and no longer usable. Thus, replacement is on a condemned basis only. Damage or misappropriation of clothing will result in disciplinary action. Your issue of clothing consists of the following: C

1 Winter Coat
1 Chino Jacket
4 Pairs Pants
3 Work Shirts
1 Dress Shirt
4 Shorts
4 Tee-Shirts
2 Sets Winter Underwear
6 Pairs Socks
1 Pair Work Shoes
1 Pair Dress Shoes
1 Belt
1 Knit Cap
1 Sweatshirt
6 Handkerchiefs
1 Bath Towel
1 Hand Towel

5.3 Dress Apparel: There will be no altering of State clothes. The wearing of swag made clothing in <u>any form</u> is prohibited. C

6. HOUSING

6.1 Of particular importance, it is essential that you maintain your cell in a clean and orderly manner. Do not litter your cell or let its condition become slipshod. You should keep your lavatory and wash bowl clean, free of stains and in working order. Do not paste anything on your cell walls. C

6.2 The "quiet" bell rings each evening at 7 o'clock, and for reasons that should be obvious, every man should respect the "quiet" bell. Men around you have different schedules. Some work at hard jobs, others are involved in education C

or special interest programs. Common courtesy towards others requires that you be quiet after 7 p.m.

6.3 Do not place your earphones in the sink for purposes of amplifying the volume. Also, refrain from using the gallery as a wastepaper basket or disposal area. Men around you are conscious of a neat appearing gallery and your cooperation is necessary to keep it sanitary. C

6.4 If you possess a musical instrument, please note that at all times instruments must be muted when played. There is no playing of instruments after the 7 p.m. "quiet" bell. C

6.5 Unnecessary accumulations of old clothing, newspapers, etc. will not be permitted. C

You should be particularly careful with combustible materials and avoid the accumulation of articles that pose fire hazards in housing and other areas. C

Refer to Deputy Commissioner Quick's memo: "Standards To Assure Cell Cleanliness and Neatness".

6.6 Unhealthy and messy conditions must not be allowed to develop from food kept in your living quarters, shops, etc. since this may lead to infestation of rodents and vermin. C

6.7 You should not tamper with radiators, windows, door locks, electric fixtures or radio headphones. If such fixtures do not operate, this fact should be reported promptly to the employees on duty. C

Nothing is to be placed on gallery windows or pipes or stored outside of cells. C

6.8 No obstructions in the form of curtains, cheesecloth or other material shall be placed in front of cells or over cell ventilators. C

6.9 Inmates will not leave their gallery or enter another without permission. C

When ordered to leave the gallery, do so in an orderly and expeditious manner without delay. These movements should be considered as fire drills and should be executed as such. C

6.10 When your company returns to the gallery, you will return to your cell without unnecessary delay. C

7. MESS HALL

7.1 Common sense and courtesy should guide you in the Mess Hall. Good table manners should be a courtesy extended to fellow inmates near you.

7.2 You must enter and stay in the section of the Mess Hall which the officer has directed you to. There are only 62 seats in a section and to insure that everyone gets a seat, it is necessary that you follow directions. C

7.3 When going through the serving line pick up all the silverware that you will need. Also take everything else that you want that is not rationed. Once seated, you will not be allowed to return to the counter. Do not waste food. Eat all you take. On rationed items, take what the server gives you without argument. The present food situation makes it essential that sincere effort be made to conserve all food items. C

7.4 Glass jars and thermos bottles are not allowed in the Mess Hall. C

7.5 Only bread, meat and desserts that can be carried in your hand are allowed out of the Mess Hall. This does not include rice, macaroni, spaghetti, puddings, jello, milk or anything that takes a jar or plastic bag. If it is absolutely necessary to leave your seat, you should request permission from the officer or sergeant. C

7.6 When leaving the Mess Hall take all your silverware and deposit it in the container by the door. C

7.7 Leave the Mess Hall on the signal from the officer or sergeant. C

7.8 If you have any questions or complaints you should direct them to an officer or sergeant, not to another inmate. C

7.9 Mess Hall equipment should not be removed from the Mess Hall since this causes shortages which result in delays in feeding the main line. It is also important that all feed up items are returned to the Mess Hall after each meal. C

7.10 Inmates employed in the kitchen are to maintain a high standard of personal hygiene at all times and are to wash their hands thoroughly before handling food. C

8. SHOP RULES

8.1 Inmates will proceed to the shop area when work call is sounded, in an orderly manner, through the shop gate to their respective shops and punch their own time cards. On leaving, proceed on command by the Correction Officer in charge of shop, from shop through the shop gate by two's and return to your housing area. C

8.2 All inmates assigned to shops must report to their assigned jobs unless on legitimate callouts. (e.g. Sick Call, Visit, Parole, Service Unit Interviews, etc.) C

8.3 No inmate may absent himself from his assigned area for any reason unless by pass or permission from Correction Officer in charge of his shop. A-C

8.4 Each inmate on callout must return to his assigned shop escorted by Correction Officer or on pass as soon as possible after his interview terminates. No loitering in the yard, blocks, etc. C

8.5 Inmates will work on only machines and power trucks to which they are assigned by shop foreman and will be responsible for keeping machines and surrounding area clean. C

8.6 Smoking in shops will be allowed only in areas so designated in each shop. C

8.7 Sneakers or sandals or slippers will not be worn in shop areas. State shoes only must be worn. C

8.8 All shop safety rules must be adhered to. (e.g. Goggles or protective covering etc. must be worn where so designated.) C

8.9 Showers are allowed in shops at times designated by shop foreman and shop officer only and each inmate is responsible for cleaning the area when finished showering. No clothing, soap or toilet articles will be left in shower area. C

8.10 Each inmate is responsible to see that sinks, toilets and latrines are clean after he uses them and all water must be turned off after using. C

8.11 Each inmate is issued a locker, therefore no clothes are allowed to be left on radiators, chairs or pipes. C

8.12 Hot plates are permitted for coffee and soup only. No other food allowed in shops. C

8.13 No swag bags are to be carried to or from shops. However, toilet articles and clothing may be carried in pillow cases on bath days only. Articles may be carried only in clear plastic bags. C

8.14 Hobby work, legal work, exercising with or without weights, school work, musical instruments or horseplay will not be allowed in shops. C

8.15 No material, wood, cardboard or metal even though considered scrap, may be taken from shops. C

8.16 Loafing, deliberately doing poor work, or so encouraging others, or damaging property will not be allowed. C

9. YARD RULES

9.1 There will be no loitering at entrances or exits to buildings or passageways. C

9.2 Inmate Exercising: No more than four to a group with no chanting or calling. There will be no blocking of running C

paths or regular traffic passageways by any exercising groups or by any other means.

9.3 There will be no running to blocks or Gym Building for water or for use of toilet. Water and lavatories are provided in the Main Yard and South Yard. C

9.4 Blocks will be open when announced for IN only, unless announced differently over the yard Public Address system. Length of time for openings will be announced. C

9.5 One man on a punching bag or speed bag at a time. No shadow boxing or sparring at any time.

9.6 No tools in weight boxes. Tools to be handed out by officer and returned when finished with. C

9.7 No tables on weight areas. C

9.8 Weight boxes to be kept in a neat and orderly manner. No locks or locking devices permitted on same. C

9.9 No equipment added without checking with Recreation Department and/or Recreation Officer. C

9.10 No gardens, flower beds, etc. in weight areas. C

9.11 No sunbathing, card playing, etc. in weight area. Weight area for weightlifting only. C

9.12 No equipment, boxes, lockers, etc. to be on or leaning on the south wall in the weight area. C

9.13 No storing of food or clothing in weight box or weight area. C

9.14 Blankets: There will be no State blankets in the yards. Personal blankets may be used to sit on or to cover a table top or bench but are not to be worn as a garment in any fashion. Blankets will not be put over the head even in foul weather. C

9.15 Tables: There are no privately owned tables or courts. Tables shall not be moved from one yard to another. The only time tables may be moved in <u>one</u> yard is by the consent and written permission of the Yard Sgt. of that yard <u>only</u>. C

There will be no painting of tables or benches without written consent of the Yard Sgt. of that yard. There will be no decals painted or drawings put on any structures or equipment in the institution. Tables will be spaced at least one foot apart. No more than four persons at a table unless permission is given. C

There will be no building of boxes or other construction done in the yard without permission and written consent of the Sergeant in the yard that the work is to be done in. C

9.16 When the signal is given to close the yards, inmates will leave the yards without delay. C

10. PACKAGE ROOM RULES

10.1 Inmates allowed in this area only if they have been notified of a package or have a visit package. C

10.2 No loitering near Package Room area. C

10.3 All outgoing packages will be brought to Package Room on Sunday only. (Exception is inmate being paroled). C

10.4 Inmate must have sufficient stamp money in his account before a package can be sent out.

10.5 If unacceptable items are sent through the Package Room, you will be called and asked which method of disposal you wish to make of the items. This is in accordance with Directive 4911, Section 8, which applies to all package items.

You can elect one of three dispositions:

a. Send unacceptable item home at your expense.
b. Return to publisher.
c. Destroy it.

If you refuse to abide by this directive, you will be referred to the Adjustment Committee. C

11. FIRE RULES

11.1 Inmates will not tamper with or use fire equipment of any kind unless they are authorized personnel of the Fire Department, or unless ordered to do so by officer in charge of their work area. C

11.2 All solvents, paint thinners and other flammable substances used in hobby work will be stored in one-third pint metal containers properly marked. C

11.3 All electrical cords, plugs and outlets in cells will not be tampered with and shall be only used after the Electric Shop has approved such items and a permit issued. C

11.4 No lamp shades will be used on lamps unless approved by Fire and Safety Committee. C

11.5 No drapes or cloth or cardboard shall be draped near lamps or electrical outlets in cell. C

11.6 No clothing, towels, sheets or other substances shall be hung or draped on or across radiators, steam pipes, in shops, blocks and school areas at any time. C

11.7 No tampering with lights over hose cabinets and exits that are of special colors. C

11.8 No blocking of exits or stairways. C

11.9 No electrical cords or droppers shall be spliced together. C

11.10 All cords that need repair, that are personally owned, shall be repaired in the Electric Shop only and at the inmate's expense. C

11.11 Only authorized possession of light bulbs shall be allowed in cells. Limit of two -- not over 100 Watts each. C

11.12 Unauthorized droppers or hot plates will not be allowed in cells. C

11.13 Only authorized lamps from Package Room or Commissary will be allowed with permit by Electric Shop. C

11.14 During fires or fire drills, inmates will evacuate the areas in an orderly and prompt manner in accordance with instructions received from the personnel in charge. C

Those inmates who are called upon will assist in the extinguishment of fire in their areas. C

12. FIRST AID RULES

12.1 No loitering in First Aid area. Inmates will stay seated in hallway to Package Room until First Aid Runner calls for shop and school run. C

12.2 No gathering around Lower Hall area near Pharmacy. C

12.3 Inmates will remain orderly and quiet while in First Aid. C

12.4 No smoking allowed in First Aid or Dental offices. C

13. HOSPITAL RULES

13.1 No personal clothing is allowed, except for towels, washcloths, slippers or shower slides. Pajamas, bathrobes, etc. will be supplied by Ward Nurse. C

13.2 Patients are to remain in their wards unless going to the toilet or shower. You could ask the Ward Nurse for anything you need, or use the call light above your bed. The cutdown of traffic enables the staff to handle emergencies in a more efficient manner and to give better care. C

13.3 Patients will be in bed at 9:00 p.m. -- sitting up in a chair is not allowed. C

13.4 Perishable foodstuffs received in packages will be stored in the kitchen and served at regular mealtimes only.

13.5 Personal items from the cell blocks are obtained by written request from the Hospital Officer. He, in turn, will call the block and it is up to the Block Officer to see that they get to the Hospital. Requests should be made before 1:00 p.m.

13.6 Television programs are selected by the majority of the ward patients. C

13.7 Showers will be used by the ward patients from 8 a.m. to 11 a.m. This will enable the patients in rooms to shower in the afternoon. C

13.8 Telephone calls are arranged through the Service Unit or the 3 to 11 Watch Commander. The Doctor cannot give you permission to make a phone call. He can only recommend if you are able to leave the Hospital to make your call.

13.9 Everyone is asked to cooperate to keep the Hospital clean. This makes for a healthier environment for everyone.

13.10 Yelling or shouting out the windows is forbidden. C

13.11 No inmate visitors are allowed, only if related and with special permission. C

14. VISITING ROOM RULES

14.1 Inmates receiving visits shall present a clean, neat appearance: Clean shaven, regulation hair length, proper clothing.

14.2 Absolutely nothing shall be given to, or received directly from, a visitor. C

14.3 Inmates will be seated by the Officer, with Special Housing and Keeplocked men placed in the front of the Visiting Room. C

14.4 No hair combing or hair braiding allowed. C

14.5 Inmates and visitors are to remain in their chairs while visiting. C

14.6 No smoking allowed in Visiting Room. C

14.7 No food, soda, coffee, etc. allowed into the Visiting Room to be consumed by the inmate or visitor. Vending machines are available. C

14.8 Inmates shall not visit with visitors that are not on their visiting lists. C

14.9 All religious and volunteer visits will be conducted one at a time by the visitor.

14.10 Inmates coming in, or going out of the Visiting Room will use the center aisle only. C

14.11 No card playing, chess or other games of any kind allowed in the Visiting Room. C

14.12 Inmates and visitors are not allowed in the bathroom together. C

14.13 No fondling or heavy petting is permitted in the Visiting Room. C

14.14 No profane, loud or abusive language allowed. C

14.15 Inmates are not allowed to have money or operate vending machines in the Visiting Room. C

14.16 Only one inmate at a time permitted in the bathroom. C

15. BACK HALL RULES

15.1 Inmates must have a shirt with a collar or a turtleneck. C

15.2 Inmates must comply with grooming policy. C

15.3 No jewelry, watches, etc. (wedding ring only) C

15.4 No bare feet. If sandals are worn, socks also. C

15.5 Nothing except a handkerchief will go into or out of the Visiting Room. C

15.6 No hobby work will come through the back hall. Work must go to the Hobby Shop for a pass. C

15.7 No sun glasses or shaded glasses unless by prescription and a pass from the nurse or doctor must be shown. C

15.8 Inmates must submit to a pat frisk before entering the Visiting Room. (Unless specified otherwise by competent authority.) C

15.9 Inmates must submit to a strip frisk, including a visual check of body cavities. C

16. CALL HOME PROGRAM RULES

16.1 This is not a mandatory callout and all inmates are required to check their own name, number and call time and report at that time only. C

16.2 Each inmate will receive one arrival call within 24 hours. Send form TCQ-1 (found in all blocks) to the Call Home Program office to indicate if you want to participate or not. Please include full name and mailing address.

16.3 A maximum of only 8 people will be allowed. Any change of names on the telephone card must be in compliance with the rules. C

16.4 Before an individual will be added to the telephone list, Form TCQ-2 will be sent out by the Service Unit and must be returned by that person you wish to add to your telephone list. You will not be allowed to call anyone until that form is returned.

16.5 A call to an attorney must comply with the same rules.

16.6 Scheduling is done by number only, not by time, starting with the lowest facility number and working up through the entire population in numerical order.

16.7 Emergency calls can be given only by the Senior Correction Counselor, Deputy Superintendent or the 3 to 11 Watch Commander. Such calls must be substantiated by evidence such as a letter to prove the need for the emergency call.

16.8 If an inmate is "Keeplocked" or does not show up within one hour of his scheduled call, he will lose that call and will not be rescheduled until the next month.

16.9 Only one call a month is allowed and you will not be able to save or build up calls for future use.

16.10 Calling hours are: 5:15 p.m.-8:15 p.m. weekdays and 1:15 p.m. -8:15 p.m. weekends and holidays. Each inmate is responsible to check his own day and time to report for his call and report at that time only. Inmates are required to try their call at least one time before they can change calling time or calling date.

16.11 When making their monthly call all inmates will be requested to log their next monthly call at this time. Calls will be scheduled by day only and not by time. Calls will be placed on a daily list in numerical order only. Inmates must show up on their scheduled date and time only.

16.12 The officer will place a limit of <u>ten minutes only</u> on all calls. Mis-use of this time or mis-use of these rules will result in disciplinary action. C

17. <u>GYM -MEDIA CENTER -CHAPEL -HOBBY SHOP</u>

17.1 Inmates are admitted to the building according to the established schedule or approved list only. Inmates on approved lists may remain in the building for the purpose stated on the lists only. C

17.2 No smoking in any area. C

17.3 No admission permitted to any office or storage area unless specifically requested and under the supervision of an employee. C

17.4 No food or drinks permitted in the building. C

17.5	No cooking in the building.	C
17.6	Sneakers are required for access to the 2nd and 3rd floor exercise areas.	C
17.8	No hats may be worn in the building.	C
17.9	No bare feet permitted in the building other than for taking showers.	C
17.10	In the Media Center and Hobby Shop, shirts that cover the shoulders are required.	C
17.11	No materials, books or other articles may be removed from the building without following established Check-out procedures.	C
17.12	Games such as cards, chess, checkers, etc. may be played on the 3rd floor only.	C
17.13	No hairbraiding or haircutting is allowed.	C
17.14	Media Center clerks are permitted in the Media Center only when a civilian is present.	C
17.15	No bags, containers or thermos jugs are permitted in the building.	C
17.16	No inmates other than Hobby Shop clerks are to be permitted in the Hobby Shop when no civilian is present.	C
17.17	Only one man and a six minute time limit per punching bag.	C
17.18	Equipment used by inmates is to be returned to the proper storage place when not in use.	C
17.19	All litter is to be placed in proper containers.	C
17.20	No loitering permitted in the building. Stairways are to be used for access to different floors only.	C
17.21	Admittance to the I.L.C. office for I.L.C. business only.	C

AUBURN CORRECTIONAL FACILITY

CELL STANDARDS & REGULATIONS

1. YOUR ENTIRE CELL AND CONTENTS MUST BE CLEAN AND NEAT AT ALL TIMES.

   a) Food containers will not be left open in your cell. Eating utensils shall be kept in a clean condition.

   b) Empty glass jars, tin cans or other containers will not be permitted

2. YOUR CELL FURNITURE WILL BE ARRANGED IN AN ORDERLY MANNER AND SHALL CONSIST OF ONE (1) BED, ONE (1) DESK AND ONE (1) STOOL.

   a) No table tops of any kind are allowed.

   b) Beds will never be taken apart (frames, springs, ends, etc.).

3. WHENEVER YOU LEAVE YOUR CELL:

   a) Your bed will always be properly made.

   b) You will turn off your lights and all other electrical devices.

   c) You will dispose of your wastepaper, garbage and other trash.

4. YOU ARE ALLOWED ONE (1) LAMP, IN ADDITION TO THE PERMANENT CELL LIGHT.

   a) Only an approved commercial lamp and lamp shade is allowed.

   b) Only 75 watt bulbs are permitted to be used.

   c) Only approved commercial extension cords and sockets are permitted.

   d) You are only allowed to have two (2) extension cords in your cell.

   3) These extension cords must be #14 wire with single outlet.

5. YOU ARE NOT PERMITTED TO ACCUMMULATE EXCESSIVE AMOUNTS OF NEWSPAPERS, MAGAZINES, BOOKS, FOOD OR OTHER PERSONAL PROPERTY.

   a) Newspapers over thirty (30) days old must be discarded or sent home at your expense.

   b) At no time will you be allowed to have more than twenty (20) magazines in your cell. Anything over twenty (20) must be discarded or sent home at your expense.

   c) At no time will you be allowed to have more than ten (10) cartons of cigarettes in your cell.

   d) All perishable food must be consumed as soon as possible and not stored or allowed to spoil.

   e) You are allowed three (3) small boxes for storing necessary personal property. (This includes non-perishable food items.)

f) All of these boxes must be kept under your bed at all times.

6. YOU ARE PERMITTED TO HAVE A 2' x 3' AREA ON EITHER SIDE WALL FOR HANGING PICTURES.

a) Pictures or paintings of nudes are only permitted on the wall area just inside and above the entrance to your cell.

b) Pictures or paintings, when attached directly to the cell wall, must be fastened by using scotch tape. The reason for this is so that the wall will not be defaced when it is removed, and they will be removed for cell inspection

c) Nothing is permitted to glued, pasted or nailed on any cell fix-ture, furniture, wall or ceiling.

7. ABSOLUTELY NOTHING IS PERMITTED TO BE ON OR HANGING FROM YOUR BARS, WINDOWS AND VENTILATORS IN ANY FASHION, EXCEPT A CLOTHESLINE, WHICH DOES NOT OBSTRUCT FULL VISION INTO YOUR CELL. (CLOTHESLINES MUST BE MADE OUT OF A MATERIAL WHICH IS NOT CONTRABAND OR CONSIDERED A SAFETY OR SECURITY HAZARD

8. YOUR CELL INTERIOR WILL BE PAINTED ONLY BY DIRECTION OF THE MAINTENANCE DEPARTMENT.

a) Only authorized colors supplied by the facility are allowed.

b) Sinks, toilets, beds and all other cell fixtures and equipment are not to be painted.

9. CELL CLEANING (THOROUGH) WILL BE ALLOWED AT THE DISCRETION OF THE BLOCK OFFICER.

10. You ARE RESPONSIBLE FOR THE SECURITY OF YOUR POSSESSIONS, BOTH PERSONAL AND STATE ISSUE. YOU MAY PURCHASE A PADLOCK IN THE COMMISSARY FOR USE ON YOUR DESK.

When a Correction Officer believes that an inmate possesses personal property in an amount that constitutes a fire, health or safety hazard or clutters his cell, the officer shall bring the matter to the attention of the inmate. All surplus personal property (except contraband) will either have to

a) Shipped to relatives or friends of the inmate at his expense.
b) Donated by the inmate to a charitable organization.
c) Destroyed at the inmate's request.

IF THE MATTER CANNOT BE RESOLVED AT THIS LEVEL, THE CORRECTION SERGEANT IN CHARGE OF THE HOUSING UNIT WILL BE ADVISED. THE SERGEANT WILL THEN MEET WITH THE INMATE AND DISCUSS THE CORRECTIVE ACTION TO BE TAKEN.

These standards and regulations are the best interest of all inmates living in this facility. It is intended that they will contribute towards making and keeping the facility as safe, healthy, clean and neat as possible for all inmates who live here. All inmates must comply with these sandards and regulation in total. Failure to do so could result in endangering other inmates' safety and health. For these reason, violations will be considered of a serious nature and may result in disciplinary action. BE SURE THAT YOUR CELL MEETS ALL OF THESE REQUIREMENTS AS DAILY INSPECTIONS WILL BE MADE!

ADDITIONS TO CELL STANDARDS AND REGULATIONS

1. One writing board (no larger than 13" x 18").
2. One small cabinet over sink (to hold soap, razor, etc.).
3. One cabinet over table (no longer than the table and no higher than 24 in.).

ADDITIONS TO FACILITY RULES & AMENDMENTS

4.5 No hats or head coverings will be allowed in any building, except that an inmate may wear religious head covering in his cell or while attending religious services approved by the facility administration.

6.11 You must go to the Mess Hall for breakfast on regular working days unless on medical excuse or Keeplocked. Those whose duties allow may return to their cells with the permission of the officer in charge, subject to recall for work when needed.

6.12 You must be sitting up for the 7:20 a.m. count and be visible for the remaining live counts during the day. When necessary, your cell should be illuminated.

10.6 Articles received in the facility will be in accordance with Department Directive #4911. A list of approved articles will be posted in the Package Room and in the cell blocks.

18. SCHOOL RULES

18.1 Upon arrival in the school, all new students are to report to the Education Office for interview and to have a class schedule established.

18.2 You are not to go to a class or shop where you are not assigned without written permission from the office. The pass must be signed by a Supervisor.

18.3 When the bell rings to start classes you are to proceed to your assigned class. You are to remain in the class until the bell rings ending the class period. You are not to loiter or roam the halls during class periods.

18.4 No one is permitted to skip classes. You may not leave the building and go to the yard until the end of the morning or afternoon sessions.

18.5 Hats,or any type of head covering, are not to be worn in the school building. Protective head gear can be worn in shop areas only when necessary to perform assigned work. Instructors are to approve use in such cases.

18.6 Cooking is not allowed in school classes or shops.

18.7 No personal work or hobby work is authorized in the school building. No material, tools or equipment will be removed from the school building.

18.8 No swag bags or buckets or anything other than educational materials are to be brought to the school area.

18.9 On days when you are on sick call or any other scheduled call-out during school hours, you are to return to your housing area from the Mess Hall. You are to report to school after completion of your callout.

18.10 On bath days you are to report to school after completion of showers and clothing issue.

18.11 On Commissary Buy days, school men buy in the afternoon only. Go to the Commissary after leaving the Mess Hall, pick up your buy and then return to school.

19. AUDITORIUM RULES

19.1 There will be no smoking in the Auditorium at any time.

19.2 No shorts or sleeveless shirts will be allowed in the Auditorium.

19.3 No cushions will be allowed in the Auditorium.

19.4 After entering the Auditorium you will sit where assigned and remain in assigned seat unless you have to leave the Auditorium or have to use the lavatory.

19.5 Only snacks will be taken into the Auditorium.

19.6 The facility administration regards fights or disturbances in the Auditorium as very serious misconduct.

19.7 While in the Auditorium inmates will conduct themselves in an orderly and courteous manner.

19.8 When it is time to leave the Auditorium you will remain in your seat until the row you are seated in is signaled by the officer to leave.

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CORRECTIONAL INSTITUTION - RULES AND REGULATIONS - PUBLICATION

CHAPTER 231

The People of the State of New York, represented in the Senate and Assembly, do enact as follows:

Section 1. The Correction Law is hereby amended by adding thereto a new section, to be section one hundred thirty-eight, to read as follows:

§ 138. Institutional rules and regulations for inmates at all correctional facilities

1. All institutional rules and regulations defining and prohibiting inmates misconduct shall be published and posted in prominent locations within the institution and set forth in both the English and Spanish language.

2. All inmates shall be provided with written copies of these rules and regulations upon admission to the institution and all inmates presently incarcerated in a correctional facility shall be provided with copies of these rules and regulations.

3. Facility rules shall ~~xxxxif~~ be specific and precise giving all inmates actual notice of the conduct prohibited. Facility rules shall state the ranges of disciplinary sanctions which can be imposed for violation of each rule.

4. Inmates shall not be disciplined for making written or oral statements, demands, or requests involving a change of institutional conditions, policies, rules regulations, or laws effecting and institution.

5. No inmate shall be disciplined except for violation of published and posted written rule or regulation, a copy of which has been provided the inmate.

6. All rules and regulations pretaining to inmates established by the department of correctional services and rules and regulations pretaining to inmates established by any institutional staff at any state correctional facility shall be reviewed annually by the commissioner of the department of correctional services.

§ 2. This act shall take effect on the first day of September next succeeding the date on which it shall become a law

BEST COPY AVAILABLE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ELMORE CUNNINGHAM, ERNEST ISON III, EDGAR WILLIAMS and CHARLES GOLL, and all others similarly situated at Auburn Correctional Facility,

Plaintiffs,

-against-

76-CV-

BENJAMIN WARD, Commissioner New York State Department of Correctional Services,

ROBERT J. HENDERSON, Superintendent Auburn Correctional Facility and their subordinate employees,

Defendants.

EDMUND PORT, Judge

Memorandum-Decision and Order

The Clerk of the court has sent to me for my consideration a civil rights complaint, together with affidavits in forma pauperis from state inmates presently confined in the Auburn Correctional Facility, Auburn, New York; the plaintiffs seek to bring the lawsuit as a "class action."

The central claim made herein, and the only allegation deserving discussion, is the contention of the plaintiffs that the full range of procedural due process rights mandated by Wolff v. McDonnell, 418 U.S. 539 (1974), should be held applicable to inmate appearances before the Facility's Adjustment Committee.

The role of the Adjustment Committee is restricted to handling and dealing with cases of "less serious misbehavior";

it cannot forfeit an inmate's"good time", nor can it confine an inmate in a special housing unit unless it immediately recommends to the Superintendent that a Superintendent's Proceeding be held. See Standards of Inmate Behavior, September 1, 1975, Chart # 1, p. 2. Basically, the Adjustment Committee exercises discipline by depriving an inmate of one or more privileges for not more than 30 days or by confining an inmate to his cell or room for not more than two weeks. See Standards of Inmate Procedure, supra. Wolff v. McDonnell, supra, specifically cautioned that the procedural rights therein mandated were not to be required for the imposition of lesser penalties than loss of good time or solitary confinement. 418 U.S. 539, 571-72 at fn. 19.[1]

None of the plaintiffs herein were subjected to loss of good time or to solitary confinement; the disciplinary punishment meted out herein, it is alleged, was confinement to one's cell or room for 10 days or less, and the imposition of suspended sentences of punishment.

Plaintiffs' contention that Wolff should hold to govern the proceedings of the Adjustment Committee, as alleged herein, is without foundation and is constitutionally unwarranted; accordingly, the complaint herein shall be denied and dismissed, in all respects.

For the reasons herein, it is

1. New York provides the procedural rights mandated by Wolff in disciplinary cases where required, by means of a Superintendent's Proceeding.

ORDERED, that the complaint herein be and the same hereby is denied and dismissed. Leave to proceed in forma pauperis is granted, and the Clerk is directed to file the papers herein without the payment of fees.

Edmund Port
United States District Judge

Dated: January 20, 1976.
Auburn, New York.

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FOR THE

NORTHERN DISTRICT OF NEW YORK

CIVIL ACTION FILE NO.

CUNNINGHAM, ELMORE, et al,

vs.

WARD, BENJAMIN, et al,

Plaintiff,

Defendants.

JUDGMENT 76-CV-2

consideration

This action came on for ~~trial or hearing~~ before the Court, Honorable Edmund Port, United States District Judge, presiding, and the issues having been duly considered and a decision having been duly rendered,

It is Ordered and Adjudged that the civil rights complaint is denied and dismissed.

Dated at Utica, New York, this 23rd day of January, 1976.

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Clerk of Court

UNITED STATES SECOND CIRCUIT
COURT OF APPEALS

ELMORE CUNNINGHAM, ERNEST ISON III, EDGAR WILLIAMS and CHARLES GOLL, and all others similarly situated at Auburn Correctional Facility,

Plaintiffs

-against-

BENJAMIN WARD, Commissioner New York State Department of Correctional Services,

Robert J. Henderson, Superintendent Auburn Correctional Facility and their subordinate employees,

Defendants

NOTICE OF APPEAL

76 -CV- 37

NOTICE IS HEREBY GIVEN, that Elmore Cunningham, Ernest Ison, III, Edgar Williams, Charles Goll, and all others similarly situated at Auburn Correctional Facility, plaintiffs hereby appeals to the United States Court of Appeals for the Second Circuit, from an order denying and dismissing a Civil Rights Complaint entered in this action on the ~~31st~~ 30th day of ~~December~~ January 1976, in the United States District Court for the Northern District of New York, by (Port, J.)

SWORN TO BEFORE ME THIS
1 DAY OF FEBUARY 1976
Edwin A Grace
NOTARY PUBLIC

My Commission Expires March 30, 19 77

Elmore Cunningham
Elmore Cunningham plaintiff

Ernest Ison
Ernest Ison III plaintiff

Edgar Williams
Edgar Williams plaintiff

Charles Goll
Charles Goll Plaintiff

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